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FEDERAL LEGISLATION CLARIFYING MONOMOY NATIONAL WILDLIFE REFUGE WESTERN BOUNDARY

The Town of Chatham is very pleased that Congressman William Keating will soon introduce legislation clarifying the western boundary of the Monomoy National Wildlife Refuge (Refuge). The Town has worked very closely with the Congressman, and Senator Markey, to ensure the Town and Commonwealth's historic and legal rights are protected. Letters and expressions of support for the Town's position have been received from a broad base including Governor Baker, Barnstable County Assembly of Delegates, virtually every Cape and Islands town, City of New Bedford, Cape Cod and Chatham Chambers of Commerce, civic organizations, and many residents and visitors.

This controversy started in early 2014 when the U.S. Fish and Wildlife Service (FWS) released its draft Comprehensive Conservation Plan (CCP) for managing the Refuge. The Town and the Commonwealth were surprised that, for the first time since creation of the Refuge, the FWS contended that it owned the submerged lands and overlying open waters, west of Monomoy Island. Such a position was not evident in the previous refuge management plan (*1988 Environmental Assessment, Master Plan, Monomoy National Wildlife Refuge*). This significant change in management direction, for no environmental reason, is in large part why residents and public officials were so surprised and concerned. The Town and Commonwealth have, for generations, effectively managed the open waters and submerged lands, and the resources contained within, to the benefit of the environment, the public, and the Refuge. The Town and Commonwealth immediately expressed their opposition to this new, unjustified taking and developed and submitted to FWS extensive legal comments substantiating our position (available at [http://www.chatham-ma.gov/Public\\_Documents/ChathamMA\\_BComm/Monomoy](http://www.chatham-ma.gov/Public_Documents/ChathamMA_BComm/Monomoy)).

The FWS contends that a map accompanying the 1944 Declaration of Taking (DOT), which created the Refuge, included a straight line over the westerly open waters with that line establishing the western boundary. The Town, however, argues that the mapped line only depicts the exterior limit of the DOT for the purpose of including in the refuge any land above mean low water that may accrete or buildup inside the line. This is consistent with the DOT language which speaks to "...land lying above mean low water...". Historic documents from the 1930's and 40's show that FWS could not conclusively determine the upland limits of Monomoy Island, so they simply drew a line to the west of Monomoy Island. Monomoy Island's western coastline is typified by constant changes, the result of which has been the appearance and disappearance of new and often ephemeral land masses above mean low water. By drawing the rectangular box, the FWS was able to capture such upland areas under the Refuge, so long as such lands were within the rectangular box. From the beginning, FWS was aware of

the dynamic nature of Monomoy's western coastline and the slow westerly movement of the island. As sand builds up over time and the island moves to the west, this accreted land above mean low water becomes part of the Refuge.

Unfortunately, some national environmental groups have begun a campaign against the legislation and have urged Cong. Keating and Sen. Markey to withdraw their support. They claim that the Refuge is under threat, that the proposed legislation would give away half the Refuge, and that horseshoe crabs and the wildlife they support would again be at risk. This is certainly not the intention of the Town. Obviously these groups are not familiar with the Refuge and do not know our Town and communities long history of environmental protection and sustainable resource utilization. For example, currently there is a prohibition on the harvest of horseshoe crabs and the Town intends to continue that ban. These groups also have not reviewed the congressional record and legal documents clearly indicating that the FWS never owned the submerged lands and open waters which rightly belong to the Commonwealth. The natural resources of this area have been cared for, protected, and managed by the Town and Commonwealth for decades and we intend to continue our stewardship responsibilities. As we have done in the past, the Town will continue to work cooperatively with FWS to ensure that refuge resources are protected.

As Chatham's elected officials, we have a fiduciary responsibility to the Town to protect public safety, public assets, and the special quality of life in Chatham for this and future generations. The Town and Commonwealth have, for generations, effectively managed the open waters and submerged lands, and the resources contained within, to the benefit of the environment, the public, and the Refuge. Regulations governing these areas and resources have been implemented, or revised, as needed to ensure the long-term sustainability of these resources for use by the public and in support of Refuge goals. If the FWS unsubstantiated claim is allowed to stand, it would forever cede jurisdiction and management authority over the submerged lands and open waters to them, abrogating the Town's and the Commonwealth's authority. We thank Congressman Keating, Senator Markey, Governor Baker, and many others for recognizing this fact and for supporting legislation clarifying the refuge's western boundary.

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